

1 IN THE UNITED STATES DISTRICT COURT  
2 DISTRICT OF SOUTH CAROLINA  
3 ANDERSON COUNTY

5 KELLY BEVERLY PHILLIPS and  
6 PASSION ELLAFAIR WALLACE,  
7 Plaintiffs,

# EXHIBIT F

8 v. Civil Action No.  
9 ABBEVILLE COUNTY SHERIFF'S 8:23-cv-04309-JDA  
10 OFFICE; TOWN OF IVA; JEREMY  
11 ROBINSON in His Official and  
12 Individual Capacity; and RAY  
13 KELLY, in His Official and  
14 Individual Capacity,  
15 Defendants.

17 DEPOSITION OF BRIAN BATTERTON  
18 DATE: Tuesday, January 7, 2025  
19 TIME: 10:03 a.m.  
20 LOCATION: Remote Proceeding  
21 Charleston, SC 29492  
22 REPORTED BY: Dana Johnston  
23 JOB NO.: 7070291

1 powder substance.

2 Q Okay. And they learned that a minute and  
3 36 seconds into the pursuit; right?

4 A Well they -- they observed what they  
5 believed to be a white powder substance being thrown  
6 out of the vehicle at a minute 36 on the timestamp of  
7 the video.

8 Q All right. And just to recap us at this  
9 point, we observed dangerous driving from Trotter  
10 going over the line or being in the oncoming lane of  
11 traffic at second 00:21, second 00:26, second 00:30,  
12 second 00:44, second 00:51, second 00:55, minute  
13 marker 01:05, minute marker 01:19, minute marker  
14 01:26.

15 And so at this point at 01:36, there's at  
16 least nine times in which dangerous driving by  
17 defendant Trotter was seen on this video; right?

18 A Yes.

19 Q I just wanted to clarify that. All right,  
20 so the white powder substance at a minute 36 after  
21 nine times of unsafe driving by the defendant  
22 Trotter --

23 A On rural roads --

24 Q On rural roads --

25 A -- with very -- with very light traffic.

1 Q Okay.

2 A On dry roads.

3 Q Okay.

4 A And there are -- there are other factors. I  
5 know you said we'll get to these later, but --

6 Q We'll go through those. I promise you'll  
7 have the opportunity to testify to that. All right.

8 At 01:40, we're adding our tenth unsafe driving  
9 incident in which Trotter runs the stop sign; right?

10 A Yes.

11 (Video played.)

12 BY MR. BRADY:

13 Q All right. It looks like he fishtails and  
14 swerves into the oncoming lane of traffic around the  
15 01:43 mark; right?

16 A Yes. So we've got our eleventh incident of  
17 unsafe driving; right?

18 Q Yes. And at this point, Lieutenant Kelly  
19 says, "He's about to wreck"; isn't that true?

20 A Yes. He was stating what he was observing  
21 at the time here.

22 Q And still the pursuit was not called off;  
23 right?

24 A No.

25 (Video played.)

1 BY MR. BRADY:

2 Q All right. I've paused it here at the 01:53  
3 mark. Let me do -- at 01:53 mark. Looks like  
4 paragraph 31 you mentioned that "A vehicle passed in  
5 the opposite direction. Trotter was on the correct  
6 side of the road"?

7 A Yes.

8 Q It's fair to say about six or seven seconds  
9 prior to this point that Trotter was on the wrong side  
10 of the road?

11 A Yes.

12 Q Is it fair to say that less than ten seconds  
13 prior to this point, Trotter was fishtailing from one  
14 lane to another?

15 A Yes.

16 Q Is it fair to say that less than 15 seconds  
17 from this point where he is passing a car that he ran  
18 through stop sign?

19 A Yes, he did.

20 Q Why was it significant then for you to  
21 include in your report the fact that he was in the  
22 correct lane of traffic?

23 A Because he had just fishtailed, and then  
24 when they passed this car he was back on his side of  
25 the road.

1 Q What would that signify to you? I mean, why  
2 is that important?

3           A        That he recovered the -- the fishtail and  
4        got back on the right side of the road.

5 Q But as far as, like, your analysis goes,  
6 does that make it -- does that make you think that  
7 this is a driver that has control of his vehicle? Is  
8 this a safe situation?

9           A     It was fact of the incident that I included  
10          in the summary.

11 Q Okay. So you're just including it to be  
12 thorough?

13           A     It -- it's in the summary.  He had  
14 fishtailed.  The officer said, "He's about to wreck."  
15 He didn't wreck, and then he passed another vehicle  
16 and stayed on his side of the road.

17 | Q Okay.

(Video played.)

19 BY MR. BRADY:

20 Q All right. So it looks like two minutes,  
21 Paragraph 32, you say, "Lieutenant Kelly says speed is  
22 about 90"; is that right?

23           A        Yeah.  He says something that I couldn't  
24 understand, and then I heard "Speed is about 90"  
25 afterwards.

1 Q That's what I heard, too. I'll keep  
2 playing.

3 (Video played.)

4 BY MR. BRADY:

5 Q I've stopped it here at 02:11. Does it  
6 appear that Mr. Trotter is starting to head over the  
7 solid center line again?

8 A He's on the center line, yes.

9 Q Okay. Would you agree that this is at least  
10 the twelfth incident of unsafe driving that we've  
11 reviewed together so far in this video?

12 A Yes.

13 Q And this is within the first 2 minutes and  
14 11 seconds of this video?

15 A Yes.

16 Q Okay.

17 (Video played.)

18 BY MR. BRADY:

19 Q All right, 02:22 the dispatcher comes back  
20 and tells them who the tag goes back to?

21 A Yes. To a Ram he said.

22 Q A Ram. Okay. And this is information that  
23 Deputy Robinson and Lieutenant Kelly did not have up  
24 until this point at 2 minutes 22 seconds?

25 A I hadn't heard it up until that point, but

1 there was that unintelligible traffic that I -- so I  
2 don't know what it was said there.

3 Q Okay.

4 (Video played.)

5 BY MR. BRADY:

6 Q I know this is kind of hard to see with my  
7 video, but it appears that Trotter's left wheels are  
8 going over the line -- center line again; is that  
9 true?

10 A Yes, it is. It's a dotted line there. So  
11 that would indicate at least some better visibility.

12 Q Okay. And this is at 2 minutes and  
13 29 seconds. Do you agree that this is at least the  
14 thirteenth incident of unsafe driving that we can see  
15 from Trotter since this video started?

16 A I would say that that one would be a little  
17 more questionable in that it's a dotted line, which is  
18 a passing zone. So visibility would be better. But  
19 as we keep playing, we'll see if oncoming traffic  
20 comes. I don't know off the top of my head if there's  
21 oncoming traffic right there.

22 Q Sure. But Michael Trotter isn't keeping his  
23 lane in this part of the video; right?

24 A He's not keeping his lane in that, correct.

25 Q And that's unsafe driving; right?

1           A       Yes, except it's not of the same character  
2       as when it's the double yellow line.

3 Q Okay. But still unsafe; right?

4 A It could be, yes.

5 (Video played.)

6 BY MR. BRADY:

7 Q And then it appears -- paused it at  
8 2 minutes and 33 seconds -- appears at this point  
9 there's a vehicle passing in the opposite direction;  
10 isn't that true?

11 A Yeah. Yes. And he's --

12 Q Directly before this, about three or four  
13 seconds before this point in the video, he was  
14 straddling the center line. It wasn't a solid center  
15 line, but it was the center line; right?

16           A        Yes. Well that's why I said I hadn't seen  
17        it in -- or in watching it with you I hadn't seen  
18        the -- it in the whole context. So yes.

19 (Video played.)

20 BY MR. BRADY:

21 Q All right. And it appears at -- paused it  
22 at 2 minutes and 36 seconds -- it appears again he  
23 slipped over that center line, right, going around a  
24 curve?

25 A He's touching it, yes.

1 Q Yeah, I'll go back.

2 (Video played.)

3 BY MR. BRADY:

4 Q All right. For some reason my video is  
5 freezing up.

6 A It just froze.

7 (Video played.)

8 BY MR. BRADY:

9 Q All right. Right there at 2 minutes  
10 35 seconds he's on the center line; right?

11 A Yes.

12 Q Okay. And they're about to navigate around  
13 a curve -- Trotter is; isn't that right?

14 A Correct.

15 Q And there appears to be headlights coming in  
16 the opposite direction; right?

17 A Yes.

18 Q And it appears that Trotter is struggling to  
19 keep his lane; isn't that right?

20 A It does.

21 Q Do you agree that this is at least the  
22 fourteenth incident of unsafe driving since Deputy  
23 Robinson joined the pursuit?

24 A Yes.

25 Q Okay. This is at 2 minutes and 35 seconds

1 into the pursuit; right?

2 A Yes.

3 (Video played.)

4 BY MR. BRADY:

5 Q And it appears going around this curve -- I  
6 paused it here at 2 minutes and 37 seconds -- it  
7 appears that about a second prior to that oncoming  
8 traffic reaching defendant Trotter -- or Michael  
9 Trotter -- only about a second prior to that car  
10 reaching him, did he move over into his lane; isn't  
11 that true?

12 A It appears that way, yes.

13 Q And yet the pursuit was not stopped at this  
14 point; right?

15 A It is not.

16 (Video played.)

17 BY MR. BRADY:

18 Q I stopped it at 2 minutes and 40 seconds.  
19 It appears that after navigating that curve and after  
20 getting around that car -- that oncoming traffic --  
21 that Trotter has now reestablished himself in the  
22 oncoming lane of traffic; isn't that true?

23 A Yes, although we can't see traffic coming  
24 right there.

25 Q Right. But his car is in the --

1           A     He crossed -- he is across the double  
2 yellow.

3 Q Okay. And this is at least the fifteenth  
4 instance of unsafe driving since this pursuit video  
5 started; isn't that true?

6 A Yes. Driving that would indicate likely  
7 DUI.

8 (Video played.)

9 BY MR. BRADY:

10 Q Okay. I paused it at 2 minutes and  
11 45 seconds. It appears that Mr. Trotter has gone  
12 around this curve. And what's on the other side of  
13 the curve that you can see in the video?

14           A     I see a light. So that could be headlights,  
15           yep.

16 Q So right around the curb that Mr. Trotter  
17 was traveling around in the oncoming lane of  
18 traffic -- the wrong lane of traffic -- there was a  
19 car there which he swerved at the last second to  
20 avoid; isn't that true?

21 A Yes. I got that in paragraph 36.

22 Q Yeah. And so would you agree that that's at  
23 least the sixteenth incident of unsafe driving since  
24 this video started?

25 A Of the incidents that you've denoted, but

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1 again, some of those are more unsafe than others.  
2 This is one of the more unsafe.

3 Q Sure. And I understand there are degrees to  
4 these things; right? Obviously driving straight at  
5 oncoming traffic is going to be more unsafe than  
6 driving the wrong lane of traffic when there is no  
7 traffic; right?

8 A Right.

9 Q But at the end of the day, we're to 16  
10 unsafe driving activities during the first 2 minutes  
11 and 46 seconds of Deputy Robinson's involvement in  
12 this pursuit; isn't that true?

13 A Yes. But like I said, the degrees of  
14 unsafe.

15 Q Okay.

16 A I consider the most unsafe so far that we've  
17 seen to be the -- the stop sign and the -- to -- to  
18 this point and this incident.

19 (Video played.)

20 BY MR. BRADY:

21 Q All right. You mentioned in paragraph 37 --  
22 this is at approximately three minutes -- the road  
23 widened to four lanes, two lanes in each direction  
24 with a center turn lane. Trotter remained on his side  
25 of the road at this point in the pursuit; is that

1 right?

2 A That's correct.

3 Q Okay. And at approximately three minutes,  
4 do you recall hearing something from dispatch come  
5 through on Deputy Robinson's radio?

6 A I -- I recall something about maybe that --  
7 the fireworks but that they were over or something to  
8 that effect. They had asked about fireworks. I don't  
9 know if that's the point that it came in at or not.

10 Q Yep. So the dispatcher, I'll represent to  
11 you, said -- just because it's hard to play this video  
12 for you with sound over Zoom -- dispatcher said  
13 "That's affirmative. They're doing fireworks in Iva."  
14 Do you have any reason to dispute that?

15 A I don't.

16 (Video played.)

17 BY MR. BRADY:

18 Q Okay. At this point in the video at  
19 3 minutes and 2 seconds where geographically do you  
20 understand that they are located, and where do you  
21 understand that they're heading to?

22 A That they're approaching Iva or downtown  
23 Iva, and that's the direction where the fireworks show  
24 is, and they've notified Iva. And there were some --  
25 my understanding is there were at least one Iva

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1       officer up there near a fire station or -- or some  
2       other building as they passed by.

3           Q       All right. So at this point in the video,  
4       we're at least at 16 incidents of unsafe driving.  
5       They're headed towards Iva, and they've just been  
6       notified that there's a firework show going on in Iva;  
7       is that true?

8           A       That's what it sounded like, but they had  
9       also mentioned at one point they weren't sure if it  
10      was over. So in any event, you don't really see,  
11      like, pedestrians right there in the area. So I was  
12      just unclear on whether it was over and people were  
13      gone, or whether it was going and people were away  
14      somewhere in a field or -- or who knows where --  
15      somewhere not by the road watching the fireworks.

16           Q       And --

17           A       So 'cause I didn't see pedestrians when the  
18      chase passed by. So it wasn't completely clear as to  
19      where that was.

20                   MR. MORRISON: All right. Before you  
21      get to the next question, let me get in my objection  
22      to the form of the last one. Thank you.

23      BY MR. BRADY:

24           Q       Yep. And just to clarify, you know what I'm  
25      asking with my question. at this point the -- at

1       3 minutes and 2 seconds, the officers had been  
2       notified that there are fireworks going on in Iva and  
3       that they're headed straight towards Iva; isn't that  
4       true?

5                    MR. MORRISON: Object to the form of  
6       the question in the words "just been notified."

7                    A        My understanding was that the officers were  
8       aware that there was a firework show that was going on  
9       in or had just, close in time, was finishing because  
10      one of them lived in the area or something to that  
11      effect. So -- and they also had said to notify Iva  
12      they were coming. And then I heard that dispatch  
13      information saying that there were fireworks.

14                  Q        Okay. Why did you feel that that wasn't  
15      important to include in your summary?

16                  A        Because it was already included in the --  
17      the incident narratives of the officers.

18                  Q        That as they were approaching Iva, that  
19      there was a -- that the dispatcher reported "That's  
20      affirmative. They are doing fireworks in Iva."?  
21      That's included in the narrative summaries?

22                  A        That they knew that there was a fireworks  
23      show in Iva is included in there -- is in the -- the  
24      reports from the officers.

25                  Q        So if it's in the report of the officers,

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1 you didn't think it was necessarily important to  
2 include it in this timeline? Is that --

3 A Well I didn't include it in the timeline.  
4 It doesn't change my opinion, and it's a given that  
5 they knew that there was a firework show in -- in Iva,  
6 and it's included in the report. So --

7 (Video played.)

8 BY MR. BRADY:

9 Q So I just paused it at 3 minutes and  
10 12 seconds. We saw another incident in which  
11 Michael Trotter came over the center white line and  
12 then proceeded to go back into his lane. So it  
13 appears here that he's still failing to keep his lane  
14 of travel; isn't that true?

15 A Yes.

16 Q And would you agree that that's at least the  
17 seventeenth incident of unsafe driving that we've  
18 talked about so far in this incident?

19 A Well not of -- it's not of the same  
20 character as the double yellow line or the double  
21 yellow line oncoming traffic.

22 Q And I'll concede that. I'll concede that.  
23 And I understand that, but you would acknowledge that  
24 it's at least the seventeenth incident of unsafe  
25 driving; right?

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1 A To an extent, yes.

2 Q Okay.

3 (Video played.)

4 BY MR. BRADY:

5 Q It appeared -- I stopped the tape here at  
6 3 minutes and 30 seconds. I think you have  
7 2 minutes -- or 3 minutes and 29 seconds in your  
8 report. But this is a point in which he, Mr. Trotter,  
9 runs a red light; right?

10 A Yes. That's in the report.

11 Q Okay. And neither Mr. Trotter nor Deputy  
12 Robinson slow down as they approach this red light; do  
13 they?

14 A No. And the deputy explained that he had  
15 clear line of sight and that he knows the area and  
16 that based on a stop sign being at -- at one  
17 intersection up off of that cross street, that  
18 high-speed traffic doesn't come through there, and  
19 that he had a clear line of sight. And you could see  
20 there were no -- no cross traffic and no near miss.

21 Q Okay. Do you agree it's still pretty  
22 dangerous to run a red light at nearly 85, 90 miles  
23 per hour?

24 MR. MORRISON: Object to the form.

25 //

1 BY MR. BRADY:

2 Q Let me rephrase that question. Would you  
3 agree that it's dangerous to run a red light at these  
4 speeds?

5 MR. MORRISON: Same objection.

6 A Not if there's -- not if there's no cross  
7 traffic. I mean even the -- the South Carolina  
8 statute that talks about rights of emergency drivers  
9 talks about slowing down at traffic control devices as  
10 may be necessary for safe operation of the vehicle, so  
11 as may be necessary. If there's cross traffic going  
12 through, it's likely necessary --

13 Q Specifically, I'm talking about --

14 A -- or traffic.

15 Q -- not Deputy Robinson's.

16 A Say that one more time. I'm sorry. It  
17 glitched.

18 Q Yeah. And I apologize for not clarifying  
19 this, but specifically I'm talking about Trotter's  
20 actions running the red light. Would you agree that  
21 that's dangerous?

22 A Yes.

23 Q Okay. And would you agree that's at  
24 least -- I believe on -- I believe we're on 17. I  
25 might be wrong on that. It might be 18. But you

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1 agree that's at least the seventeenth incident of  
2 dangerous driving that we've talked about so far?

3 A Yes.

4 (Video played.)

5 BY MR. BRADY:

6 Q I paused here at 3 minutes and 32 seconds.  
7 It appears that Mr. Trotter is over the double yellow  
8 line; isn't that true?

9 A Yes.

10 Q Okay. Do you agree that it's at least the  
11 eighteenth incident of dangerous driving that we've  
12 seen from Mr. Trotter since the initiation of this  
13 pursuit by Deputy Robinson 3 minutes and 32 seconds  
14 prior to this happening?

15 A Yes, to a degree on some of the others.

16 Q Sure.

17 (Video played.)

18 BY MR. BRADY:

19 Q Okay. I paused it at 03:44. Does it appear  
20 to you that Trotter just passed a car at a high rate  
21 of speed?

22 A Yes, on the -- passed on the left, which I  
23 mean is the correct place to pass, but it was a high  
24 rate of speed.

25 Q Okay. Do you agree that passing maneuver at

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1 a high rate of speed was at least the nineteenth  
2 incident of dangerous driving that we've seen from  
3 Mr. Trotter since the initiation or since Deputy  
4 Robinson became involved in this pursuit?

5 A Yes, the nineteenth one we've talked about.

6 (Video played.)

7 BY MR. BRADY:

8 Q All right. It appears here again  
9 Mr. Trotter can't keep his lane. He's straddling the  
10 middle, swerving back and forth. Would you agree --  
11 this is at 3 minutes and 48 seconds -- would you agree  
12 that this is at least the twentieth incident of unsafe  
13 driving that we've observed from Mr. Trotter since  
14 Deputy Robinson became involved in this pursuit?

15 A Yes.

16 (Video played.)

17 BY MR. BRADY:

18 Q All right. Here at 3 minutes and 53 seconds  
19 his tires just went over double yellow lines, and it  
20 appears the left two wheels are in a turning lane at  
21 this point. Do you agree this is at least the  
22 twenty-first incident of unsafe driving that we've  
23 observed since Deputy Robinson became involved in this  
24 pursuit?

25 A I didn't see where it went over the double

1 yellow line, but I do agree that he's partially in  
2 that turn lane.

3 Q I guess it goes over the double yellow line.

4 A It glitched right there. It -- but yeah, I  
5 see what you're talking about.

6 Q Got you.

7 A Or touches it.

8 Q And then again, he is going over the -- into  
9 several different turn lanes and then ultimately hits  
10 the motorcycle, and that's when the incident occurs;  
11 isn't that true?

12 A Yes.

13 Q In total, would you agree that there's at  
14 least 22 incidents of unsafe driving?

15 A Oh, that's -- I'm sorry. I interrupted.

16 Q No. Go ahead. I'm sorry.

17 A I would agree that's how many we talked  
18 about, but like -- I guess I'll have an opportunity to  
19 explain later. When there's not -- when traffic is  
20 very light on the rural roads especially and there's  
21 not a lot of oncoming traffic, and there's not  
22 oncoming traffic coming, I didn't consider the  
23 crossing the double line as the -- the same character  
24 of dangerous driving as the stop sign, the near miss,  
25 the -- and this at the end.

1           Q     All right. But ultimately, you know, I  
2 guess what you've identified -- and correct me if I'm  
3 wrong -- what it seems that you've identified is there  
4 is a spectrum of different unsafe driving incidents,  
5 some of which are more serious than others that  
6 existed prior -- in the four minutes prior to this  
7 crash occurring during the pursuit; isn't that true?

8           A     Yes.

9           Q     And after each one of these unsafe  
10 incidents, at no point did Deputy Robinson or  
11 Lieutenant Kelly ever call off the pursuit?

12          A     They did not, but I don't believe that they  
13 were required to call off the pursuit -- the pursuit  
14 based on our standards in law enforcement -- because  
15 of the -- the reasons for the pursuit.

16          And there's no guarantee that somebody is  
17 going to stop driving like that and drive safe. And  
18 he was already crossing left of center, so it's  
19 reported, when the -- prior to the initiation of the  
20 traffic stop.

21          So based on that, it's a catch-22 situation  
22 for the officers. Like, if you chase him and he has  
23 this kind of crash, they -- they're viewed as should  
24 have stopped chasing him. If they stopped chasing him  
25 and he has a crash based on his driving, they would be

1 it does not say forced anybody off the road right  
2 there.

3 Q All right. So I guess, at the initiation of  
4 the pursuit then, do you believe there was an imminent  
5 threat under the policy? That's really what I'm  
6 trying to understand.

7 A Right there, not under that policy  
8 definition.

9 Q Okay. And if there is no --

10 A But -- go ahead. I'm sorry.

11 Q And if there is no imminent threat on the  
12 initiation of the pursuit -- when Lieutenant Kelly  
13 decided to initiate the pursuit, that violated  
14 Abbeville County Sheriff's Office policy; didn't it?

15 A That is a question for the sheriff because  
16 the sheriff interpreted his policy as that being an  
17 imminent threat. So again, that's going to be a  
18 question for the sheriff. The -- I can speak  
19 definitively to my opinion on the generally accepted  
20 police practice.

21 And when you look at the amount of traffic  
22 on the road, the rural streets, the dry roads, the  
23 lack of pedestrian traffic, the safe -- I -- I say my  
24 opinion -- the proper driving of Deputy Robinson, the  
25 fact that the pursuit was supervised, the fact that it

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1 those other offenses? Vehicle homicide is a pretty  
2 serious offense; isn't it?

3 MR. BRADY: Right. And often the --  
4 from what I've seen from other locations is the -- the  
5 fleeing charge or the failing to stop for blue lights  
6 kind of wraps up all those traffic violations.

7 MR. MORRISON: I don't believe I need  
8 to ask you anything else here today.

9 EXAMINATION

10 BY MR. BRADY:

11 Q I've got one last question. You said, "The  
12 fleeing violation wraps up all those traffic  
13 violations." So would you agree with me that a  
14 suspected DUI would be a suspected traffic violation?

15 A Well, DUI is a -- is a traffic charge --  
16 traffic-related crime, yes.

17 MR. BRADY: Okay. Nothing further.  
18 That's it.

19 THE REPORTER: All right, guys. Give  
20 me one second.

21 THE WITNESS: All right.

22 MR. BRADY: All right. I appreciate  
23 you, sir.

24 THE WITNESS: Thank you.

25 THE REPORTER: All right, guys. Give